

1 Jill H. Berliner (CA State Bar No. 117201)

2 *jill.berliner@rimonlaw.com*

3 Richard J. Mooney (CA State Bar No. 176486)

4 *richard.mooney@rimonlaw.com*

5 RIMON P.C.

6 2019 Century Park East #400N

7 Los Angeles, CA 90067

8 Telephone: (310) 935-0805

9 Attorneys for Plaintiff

10 William Patrick Corgan

11 UNITED STATES DISTRICT COURT

12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 William Patrick Corgan,

14 Plaintiff,

15 v.

16 John Doe,

17 Defendant.

CASE NO. _____

Complaint for Copyright Infringement

Jury Trial Demanded

1 Plaintiff William Patrick Corgan alleges for his complaint against Defendant John
2 Doe as follows:

3 **The Parties**

4 1. Plaintiff is an internationally-acclaimed musician and songwriter, and owns
5 the copyrights in the material discussed below.

6 2. Defendant is an individual who has anonymously published music clips to
7 YouTube.com that unlawfully infringe Plaintiff's copyright rights. The true name and residence of
8 Defendant is currently unknown to Plaintiff, who therefore sues Defendant under a fictitious name.
9 Plaintiff anticipates that discovery will reveal the identity of Defendant.

10 **Jurisdiction, Venue, and Intradistrict assignment**

11 3. This is a civil action seeking damages and injunctive relief for under the
12 United States Copyright Act, 17 U.S.C. §§ 101 *et seq.* The Court therefore has subject matter
13 jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338.

14 4. This Court has personal jurisdiction over Defendant, because Defendant has
15 (as further described below) consented to the jurisdiction of this Court pursuant to the provisions of
16 the Digital Millennium Copyright Act.

17 5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C.
18 § 1400(a).

19 6. Pursuant to Local Rule 3-2(c), this action is properly assigned on a District-
20 wide basis as an Intellectual Property action.

21 **Factual Allegations**

22 *The Protected Work*

23 7. In 2001, Mr. Corgan wrote and created a musical work entitled El Sol (the
24 "Copyrighted Song"). As the sole writer and creator of the Copyrighted Song, Mr. Corgan owned
25 (and still owns) all copyright rights in the Copyrighted Song.

26 8. In or about 2002, Mr. Corgan played a principal role in creating a studio
27 recording of the Copyrighted Song (the "Protected Work").
28

9. The Protected Work was part of the process of preparing to release a commercial recording of the song (which occurred in 2003, on the album *Mary Star of the Sea* by the band Zwan, of which Mr. Corgan was a central member). As such, the Protected Work was experimental, preliminary, and not intended for distribution to the general public.

10. At no point did Mr. Corgan authorize release of the Protected Work, and he and his representatives took active steps attempting to ensure the security of the Protected Work. Those steps were apparently unsuccessful, however, as Defendant somehow obtained a copy of the Protected Work.

Defendant's Wrongful Conduct

11. At some point in early March 2016, Defendant (employing the YouTube username “Blurry Vision”) posted to YouTube approximately 20 different performances of various songs in which Mr. Corgan holds the copyright, including the Protected Work (which was posted at <http://www.youtube.com/watch?v=XeXYZhyGx-U>).

12. Mr. Corgan's representatives, promptly upon recognizing the illegal postings of copyrighted works, sent DMCA take down notices to YouTube. YouTube disabled access to the illegally posted performances.

13. Defendant responded to the take down notices by sending YouTube a counter-notification under the DMCA with respect to the Protected Work (Defendant did not send counter-notifications related to the other illegal postings). In the counter-notification, Defendant stated as follows:

this user is abusing the YouTube report function, this is an audio recording of a small live concert where the band allows open taping. also – get lost, Deckstar [Mr. Corgan’s representative], what is wrong with you. I swear, under penalty of perjury, that I have a good faith belief the material was removed due to a mistake or misidentification of the material to be removed or disabled. I consent to the jurisdiction of the Federal District Court for the district in which my address is located, or if my address is outside of the United States, the judicial district in which YouTube is located, and will

1 accept service of process from the claimant. Jonathan Monte 2130 Fulton St
2 San Francisco, California 94117 US visionsofturda@gmail.com +1 415-422-
3 5555

4 14. Defendant committed perjury by claiming that the Protected Work was a
5 recording of a small live concert, when in fact it was a studio performance that was never authorized
6 for distribution.

7 15. Defendant committed perjury by claiming to be Jonathan Monte, who is
8 actually an associate of Mr. Corgan not involved in the illegal posting.

9 16. Defendant committed perjury by claiming that his address is 2130 Fulton
10 Street in San Francisco, which is actually the address for KUSF, the radio station of the University
11 of San Francisco.

12 17. At no point did Mr. Corgan authorize Defendant (or any other person) to
13 distribute in any manner (including through posting to YouTube) the Protected Work.

14 18. On March 29, 2016, Mr. Corgan submitted an application (along with the
15 required fee) to register his copyright in the Protected Work with the U.S. Copyright Office. The
16 application was assigned case number 1-3254540521.

17 **First Cause of Action – Copyright Infringement**

18 19. Plaintiff re-alleges and incorporates herein all preceding paragraphs.

19 20. Mr. Corgan is the sole and exclusive owner of the valid copyright in the
20 Protected Work.

21 21. Defendant, without Mr. Corgan's consent or permission, and without license
22 or authority, has made one or more copies of the Protected Work and has distributed the Protected
23 Work through YouTube.com.

24 22. Defendant's acts of infringement were intentional, purposeful, willful, and in
25 calculated disregard of Mr. Corgan's rights. Defendant's acts were accompanied and assisted by
26 fraud and perjury.

27 23. Defendant's acts of infringement have caused Mr. Corgan to suffer monetary
28 damages in an amount to be proven at trial.

PRAYER

1. for actual damages in an amount to be determined at trial;
2. alternatively, for statutory damages in an amount to be determined at trial,

U.S.C. § 504;

4. for costs of suit, including attorneys' fees incurred pursuant to 17 U.S.C.

Dated: April 4, 2016

By: /s/Richard Mooney
Richard Mooney
Attorneys for Plaintiff William Patrick Corgan

Demand for Jury Trial

Plaintiff hereby demands a jury trial for all issues triable to a jury.

Dated: April 4, 2016

Rimon P.C.

By: /s/ Richard Mooney

Richard Mooney

Attorneys for Plaintiff William Patrick Corgan